

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

D/F

-----X  
JEREMIAH SULLIVAN in his fiduciary capacity as a  
Trustee for the Pointers, Cleaners & Caulkers Welfare,  
Pension & Annuity Funds, the Bricklayers Joint  
Apprentice Training Fund, the Labor Management Fund,  
and the Promotion Fund, and as President of the  
Bricklayers and Allied Craftworkers Local Union No. 1,  
B.A.C.I.U., AFL-CIO; THE TRUSTEES OF THE  
BRICKLAYERS AND TROWEL TRADES  
INTERNATIONAL PENSION FUND; and The  
INTERNATIONAL MASONRY INSTITUTE,

Plaintiffs,

-against-

A & Z CONSTRUCTION CO. and ARSHAD  
HUSSAIN,

Defendants.

-----X  
NICHOLAS G. GARAUFIS, United States District Judge.

Plaintiffs Jeremiah Sullivan, as Trustee for the Pointers, Cleaners & Caulkers Welfare, Pension & Annuity Funds, the Bricklayers Joint Apprentice Training Fund (collectively the “PCC Funds”), the Labor Management Fund, and the Promotion Fund, and as President of the Bricklayers and Allied Craftworkers Local Union No. 1, B.A.C.I.U., AFL-CIO; the Trustees of the Bricklayers and Trowel Trades International Pension Fund; and the International Masonry Institute, bring this action against Defendants A&Z Construction Company and Arshad Hussain to recover unpaid contributions, dues and assessments owed pursuant to the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001 et seq.; the Labor Management Relations Act, 29 U.S.C. §§ 185 et seq.; and New York common law. (See Compl. (Dkt. 1).)

Defendants failed to appear or answer, and on March 13, 2013, the court granted Plaintiffs' motion for default judgment. (March 13, 2013, Order (granting Pl.'s Mot. for Default J. (Dkt. 8)).) The court referred the matter for Magistrate Judge Marilyn D. Go for a damages inquest. (Id.)

On March 11, 2016, Judge Go issued a Report and Recommendation ("R&R"), recommending that the Court award Plaintiffs judgment in the amount of \$40,061.98 plus interest until the entry of judgment. (R&R (Dkt. 16) at 26.) This amount consists of: \$18,105.38 in unpaid contributions; \$10,543.75 in interest through March 31, 2016, and at a daily rate of \$4.59 thereafter until entry of judgment; \$3,273.65 in liquidated damages; \$5,537.50 in attorneys' fees; \$521.70 in costs; and \$2,080.00 in audit fees. (Id.) Adding in the additional \$771.12 in interest accrued since March 31, 2016, brings the total current damages to \$40,833.10.

No party has objected to Judge Go's R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). (See also R&R at 26-27 ("Any objections to this Report and Recommendation must be filed . . . by March 28, 2016. Failure to file objections within the specified time waives the right to appeal.")) Therefore, the court reviews the R&R for clear error. See Colon v. Sheahan, No. 13-CV-6744 (PAC) (JCF), 2016 WL 3926443, at \*3 (S.D.N.Y. July 14, 2016); Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at \*1 (E.D.N.Y. Mar. 15, 2010); see also Porter v. Potter, 219 F. App'x 112 (2d Cir. 2007) (summary order); cf. 28 U.S.C. § 636(b)(1).

The court finds no clear error, and therefore ADOPTS IN FULL Judge Go's R&R.  
Accordingly, the court AWARDS Plaintiffs damages in the amount of \$40,833.10.

SO ORDERED.

Dated: Brooklyn, New York  
September 15, 2016

s/Nicholas G. Garaufis  
NICHOLAS G. GARAUFIS  
United States District Judge